

REMARKS

This application pertains to a novel halogen-free, easy-to-tear wrapping or winding tape.

Claims 1-33 are pending. The Examiner has imposed a restriction requirement between claims 1-16 and 19-33 (denoted Group I by the Examiner), claim 17 (denoted Group II by the Examiner) and claim 18 (denoted Group III by the Examiner), and Applicants provisionally elected Group I, claims 1-16 and 19-33. Applicants now affirm said provisional election, with traverse.

The claims under examination are therefore claims 1-16 and 19-33.

It is respectfully requested that upon the allowance of claims drawn to the elected subject-matter, the claims drawn to the non-elected subject-matter be rejoined.

Claims 1-9, 12, 15-18, and 20-21 stand provisionally rejected for obviousness-type double patenting over claims 1-4, 6-12, 14, 16, 18, 19, 21 and 22 of copending Application No. 10/570,776. The rejection is obviated by the accompanying Terminal Disclaimer, and should now be withdrawn.

Claims 5 and 23 stand rejected under 35 U.S.C. 112, second paragraph because the Examiner finds it unclear what is the antecedent basis of the process type

limitations, e.g. "the longitudinal draw ratio", and whether the claims are product-by-process claims. The claims have been amended to depend from claim 4, which clarifies that the claims are product-by-process claims. The recited process-type limitations will clearly be recognized by those skilled in the art as parameters of the blown-film extrusion recited in claim 4. Regarding the antecedent basis for the various process-type limitations, it is respectfully pointed out that all of them are inherent parameters of a blown-film extrusion process, and that the recitation of a blown-film process in claim 4 provides antecedent basis for such parameters. In this regard, the Examiner's attention is directed to MPEP §2173.05(e) (inherent components of elements recited have antecedent basis in the recitations of the components themselves, i.e., "the outer surface of a sphere" has antecedent basis in the recitation of a sphere itself).

The rejection of claims 5 and 23 under 35 U.S.C. 112, second paragraph should therefore now be withdrawn.

Turning now to the art rejection, claims 1-4, 7, 12-15, 19-22, 25, 29, 30, 31 and 32 stand rejected under 35 U.S.C. 102(b) as anticipated by Kocsis et al. U.S. 5,300,360.

Applicants' claims pertain to a winding film having a film layer comprising a copolymer of an  $\alpha$ -olefin of the formula  $R-CH=CH_2$ , such as ethylene, and an  $\alpha,\beta$ -ethylenically unsaturated carboxylic acid of 3 to 8 carbon atoms, such as methacrylic acid.

The Kocsis reference, by contrast, pertains to a layer of a blend of a first and second ethylene acrylic acid resin, such as a blend of an ethylene acrylic acid and an ethylene methacrylic acid (col. 4 lines 9-11).

The Kocsis **blend** is something completely different than Applicants' **copolymer**. Moreover, there is absolutely nothing to be found anywhere in the Kocsis reference that could ever lead to Applicants' winding tape having a film comprised of a copolymer of an  $\alpha$ -olefin of the formula  $R-CH=CH_2$  and an  $\alpha,\beta$ -ethylenically unsaturated carboxylic acid of 3 to 8 carbon atoms. Accordingly, Applicants' claims cannot be seen as anticipated by or obvious over the Kocsis reference.

Furthermore, Applicants' claims pertain to an adhesive tape made out of a carrier with an adhesive. Kocsis discloses a multilayer film which is activated by temperature (see e.g. c. 3, ls. 64 to 68). No person skilled in the art would ever put an additional adhesive onto such a product, as it makes no sense to do so.

In addition, the film of Kocsis must be able to melt at relatively low temperatures whereas Applicants' carrier must be stable even at higher temperatures. This feature is expressed by the melt index of the films. Kocsis's first film has a melt index from about 10 g / 10 min to 30 g / 10 min. As recited in Applicants' claim 13 the copolymer has a melt index of below 5 g / 10 min or up to 10 g/min.

Further still, Applicants claim a "winding tape", not a double-sided adhesive film. The expression "winding tape" means a special kind of single sided adhesive tapes.

Applicants' claims cannot therefore be seen as anticipated by the Kocsus reference, and the rejection of claims 1-4, 7, 12-15, 19-22, 25, 29, 30, 31 under 35 U.S.C. 102(b) as anticipated by Kocsis et al. U.S. 5,300,360 should now be withdrawn.

Claim 6 stands rejected under 35 U.S.C. 103(a) as obvious over Kocsis U.S. 5,300,360 as applied to claim 1 above and further in view of Riedel (U.S. 5,679,190). The differences between Applicants' claims and anything that can be derived from the Kocsis reference have been discussed above. The Examiner relies on Riedel for a ratio of tensile strength in the machine direction of at least twice the tensile strength in the cross direction. However, no tensile strength ratio could ever compensate for the differences between Applicants' claims and anything that can be derived from the Kocsis reference, as discussed above. The rejection of claim 6 under 35 U.S.C. 103(a) as obvious over Kocsis U.S. 5,300,360 as applied to claim 1 above and further in view of Riedel (U.S. 5,679,190) should therefore now be withdrawn.

Claims 8-11, 25, 26 and 28 stand rejected under 35 U.S.C. 103(a) as obvious over Kocsis (U.S. 5,300,360) as applied to claim 1 above and further in view of Mientus (WO 99/64239). The differences between Applicants' claims and anything that can be derived from the Kocsis reference have been discussed above.

Regarding claim 8, the Examiner relies on Mientus for an intermediate layer which in his opinion corresponds to a primer layer, which is placed between the core layer and an abrasive resistant skin layer to improve the stiffness. Of course, a primer

layer is not used to improve thickness, and no person skilled in the art would see the intermediate layer of the Mientus reference as a primer layer and would never use it as a primer layer. Furthermore, no intermediate layer or primer layer could ever overcome the differences between Applicants' claims and anything that can be derived from the Kocsis reference, as discussed above.

With respect to claims 9 and 28, the Examiner seems to rely on Mientus for a pressure sensitive adhesive. No pressure-sensitive adhesive could possibly overcome the differences discussed above.

With regard to claims 25 and 26, the Examiner relies on his discussion regarding claim 8, and that is addressed above.

Regarding claim 10, the Examiner relies on Mientus for an acrylic pressure sensitive adhesive. No pressure-sensitive adhesive could ever overcome the differences discussed above.

Regarding claim 11, the Examiner relies on Mientus for pigmenting the film to produce a black color. No pigment or black color could ever overcome the differences discussed above however.

The rejection of claims 8-11, 25, 26 and 28 under 35 U.S.C. 103(a) as obvious over Kocsis (U.S. 5,300,360) as applied to claim 1 above and further in view of Mientus (WO 99/64239) should therefore now be withdrawn.

Claims 16 and 33 stand rejected under 35 U.S.C. 103(a) as obvious over Kocsis (U.S. 5,300,360) as applied to claim 1 above and further in view of Takeuchi (U.S. 2001/0049022). The differences between Applicants' claims and anything that can be derived from the Kocsis reference have been discussed above. The Examiner relies on Takeuchi (U.S. 2001/0049022) for a crosslinked layer. Merely crosslinking a layer will not in any overcome any of the differences discussed above between Applicants' novel winding tape and anything that could be derived from the Kocsis reference.

The rejection of claims 16 and 33 under 35 U.S.C. 103(a) as obvious over Kocsis (U.S. 5,300,360) as applied to claim 1 above and further in view of Takeuchi (U.S. 2001/0049022) should therefore now be withdrawn.

Claim 24 stands rejected under 35 U.S.C. 103(a) as obvious over Kocsis (U.S. 5,300,360) as applied to claim 1 above and further in view of Sumida (U.S. 5,405,565). The differences between Applicants' claims and anything that can be derived from the Kocsis reference have been discussed above. The Examiner relies on Sumida for a tensile strength in the machine direction that is at least four times the tensile strength in the cross direction. The Examiner does not say how anyone could modify the films of the Kocsis reference to have a tensile strength in the machine direction that is at least four times the tensile strength in the cross direction. In addition, no tensile strength could ever overcome the differences between Applicants' claims and anything that can be derived from the Kocsis reference, as discussed above. The rejection of claim 24 under 35 U.S.C. 103(a) as obvious over Kocsis (U.S. 5,300,360) as applied to claim 1

above and further in view of Sumida (U.S. 5,405,565) should therefore now be withdrawn.

In view of the present amendments and remarks it is believed that claims 1-33 are now in condition for allowance. Reconsideration of said claims by the Examiner is respectfully requested and the allowance thereof is courteously solicited.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If any extension of time for this response is required, Applicant requests that this be considered a petition therefor. Please charge the required petition fee to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fee or credit any excess to Deposit Account No. 14-1263.

Respectfully submitted,  
NORRIS, McLAUGHLIN & MARCUS

By William C. Gerstenzang/  
William C. Gerstenzang  
Reg. No. 27,552

WCG/tmo

875 Third Avenue- 18<sup>th</sup> Floor  
New York, New York 10022  
(212) 808-0700